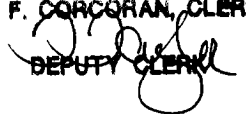


JUL 31 2008

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

JOHN F. CORCORAN, CLERK
BY: 
DEPUTY CLERK

ALLEN THOMAS JONES,)	
Plaintiff,)	Civil Action No. 7:08-cv-00425
)	
v.)	<u>MEMORANDUM OPINION</u>
)	
DOUG BAKER, <u>et al.</u> ,)	By: Samuel G. Wilson
Defendants.)	United States District Judge

Plaintiff, Allen Thomas Jones, a Virginia inmate proceeding pro se, brings this action pursuant to 42 U.S.C. § 1983. Jones alleges that the defendants have denied him access to the courts and violated his right to equal protection. However, the court finds that Jones has not exhausted all available administrative remedies before filing this action, and therefore, the court dismisses his suit without prejudice pursuant to 42 U.S.C. § 1997e(a).

I.

The Prison Litigation Reform Act requires that inmates exhaust all available administrative remedies before filing an action challenging prison conditions. 42 U.S.C. § 1997e(a); see also, Dixon v. Page, 291 F.3d 485 (7th Cir. 2002), citing Perez v. Wisconsin Dep't of Corrections, 182 F.3d 532, 535 (7th Cir. 1999) (holding that an inmate's complaint must be dismissed for failure to exhaust even if the inmate demonstrates that he filed a grievance and appealed it to the highest level of the prison's grievance procedure after commencing the lawsuit). A district court may sua sponte dismiss a complaint where a prisoner's failure to exhaust is apparent from the face of the complaint. Anderson v. XYZ Correctional Health Services, 407 F.3d 674, 683 (4th Cir. 2005). In this case, after being given the opportunity to amend his complaint, Jones concedes that he is currently "attempting to exhaust his grievance." Accordingly, the court finds that Jones had not exhausted all available

administrative remedies before filing this action.

II.

For the stated reasons, Jones' petition is dismissed without prejudice pursuant to §1997e(a) for failure to exhaust.

ENTER: This 31st day of July, 2008.


United States District Judge